

	LOS ANGELES COMMUNITY COLLEGES HUMAN RESOURCES GUIDE	HR W-500
		OVERTIME
ISSUE DATE: September 6, 2007	SERVICE: <input type="checkbox"/> ACADEMIC <input checked="" type="checkbox"/> CLASSIFIED <input checked="" type="checkbox"/> UNCLASSIFIED	
REPLACES: New	CHANGES:	

I. **POLICY**

It is the policy of the District to grant overtime within Fair Labor Standards Act (FLSA), California Education code statutes, District rules and regulations and collective bargaining provisions.

II. **DEFINITIONS:**

- **California Labor and Workforce Development Agency and Division of Labor Standards Enforcement** are the agencies that regulate overtime hours and pay within California.
- **Compensatory Time** is compensation taken as time off with pay for hours an employee works in addition to his/her regular work schedule. Compensatory time is granted in lieu of overtime on a 1½ hour off for each hour worked.
- **Fair Labor Standards Act (FLSA)** is the most general federal labor law in the United States, FLSA contains provisions that require most employees be paid at least the federal minimum wage for hours worked and overtime pay at time and one-half (1½) the regular rate for all hours worked over 40 hours in a workweek.
- **Exempt Employee** is an employee assigned to an executive, administrative, professional, or designated computer job that meets specific tests regarding job duties and salary basis as determined by the Department of Labor. Exempt employees are not subject to FLSA overtime rules.
- **Non-Exempt Employee** is an employee assigned to a job which by required under FLSA to be paid overtime pay for all worked in excess of 40 hours.
- **Overtime** is authorized time worked normally in excess of 8 hours/day (except for employees on a 9/80 or 4/10 work schedule), exclusive of meal breaks, in any one day or beyond 40 hours in a week for employees who are not exempt from the Fair Labor Standards Act (FLSA). For employees on a 9/80 or 4/10 work schedule overtime is authorized in excess of 9 hours or 10 hours, respectively, in any one day.
- **Overtime Pay** is at least 1½ times a non-exempt represented employee's regular rate of pay for all hours worked over 40 in a work week. In the LACCD, designated Classified management positions receive overtime pay at the employee's regular hourly rate of pay (straight time).
- **Workweek** or **Week** means any seven consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven consecutive 24-hour periods. For purposes of computing maximum hours per week, the workweek begins on Monday.

III. REQUIREMENTS

- A. Supervisors and managers are expected to arrange employee workloads and work schedules in such a manner that employees can complete their duties and responsibilities in a forty (40) hour workweek. Circumstances do, however, arise that may require or necessitate employees to work overtime during known peak periods of the year, i.e., student registration, payroll runs, etc. When employees are hired they should be told if overtime is required, how frequently, and the department's procedures that are used to determine overtime assignments.
- B. Supervisors and managers are responsible for ensuring compliance with mandated provisions of the [Fair Labor Standards Act \(FLSA\)](#), California statute pertaining to overtime, California Labor Commission rest and break period requirements. The most common issues that arise are summarized below.
1. **Concurrent (Dual) Employment:** [FLSA](#) requires that when a non-exempt employee performs separate jobs for the same employer, all hours must generally be aggregated for purpose of FLSA overtime wage computations. See HR Guide P-130, Additional Assignment, for details and HR Guide P-437, Personal Leave, Academic Service, for leave requirements applicable to Classified employees accepting Academic Service assignments.
 2. **Employer's Duty to Control the Work:** Employers are responsible to control the work of its employees. Employers are not permitted to "sit back" and accept the benefits of work without appropriately compensating employees. Consequently, if a supervisor/ manager does not wish work to be performed or does not have the means to compensate the employee, the supervisor/manager is required to prohibit the "off-the-the clock" work.
 3. **Meal Periods:** California statute counts meal periods as compensable hours worked unless the employee is actually relieved from active job duties. When an employee works overtime a second meal period may be required. See HR Guide W-000, Work Schedules, for details.
 4. **Hours Worked:** [California Education Code § 88027](#) specifies that for the purpose of computing the number of hours worked, time which an employee is excused from their work schedules because of holidays, sick leave, vacation, compensatory time off, or other paid leave of absence is considered as time worked by the employee. [FLSA](#) includes "off-the clock" work in time worked computation. See the appropriate collective bargaining agreement and HR Guide W-000, Work Schedules, for details.
 5. **Off-the-Clock" or "Off-Duty Work":** Job-related activities performed by non-exempt employees outside their normal scheduled working hours are required to be included in overtime compensation calculations. This requirement applies when duties are performed voluntarily by the employee (self-assigned) or assigned by the supervisor. Examples of such duties include, but are not limited, the following:
 - Maintaining equipment
 - Staying late or coming in early without "putting in" for overtime
 - Taking work home
 - Making and responding to job-related telephone calls
 - Working through meal periods
- Many FLSA cases involve employers failing to capture and compensate off-the-clock work by employees. The employee's failure to ask for overtime is usually not a defense for an employer. The employer's risk is reduced when the employer:
- a. Requires that all overtime be reported and enforces that policy or
 - b. Demonstrates they did not know the work was actually being performed.

6. **On Call:** [FLSA](#) allows an employer to require an employee to be “on call.” Off-premise on call or standby time is generally not required to be counted as work time. See the appropriate LACCD collective bargaining agreement for details on on-call and call-back provisions.
 7. **Regular Rate:** [FLSA](#) overtime is calculated at time and one-half (1½) of a nonexempt employee’s “regular rate” of pay. Subject to special rules, the regular rate is the total non-overtime compensation received by an employee for work divided by the number of non-overtime hours these wages are intended to compensate. Most wage “augmentations” such as longevity pay or shift differential must be included in the regular rate. [See HR Guide List of Jobs and Pay Scales](#) for rates.
 8. **Fair Labor Standards Act (FLSA) Minimum Standards:** The FLSA provides minimum standards that may be exceeded, but cannot be waived or reduced. Consequently, the District follows [FLSA](#), [state statutes](#), and [collective bargaining agreements](#), whichever is the highest standard.
 9. **Training Time:** Training time is generally compensable working time and is included in hours worked computations. For purposes of compensation, training time includes any time spent training a newly-hired employee, active employee, or rehired employee, in job duties. Under [FLSA](#), training time is not considered working time if it is:
 - a. Outside the employee’s regular working hours;
 - b. Strictly voluntary;
 - c. Not directly related to the employee’s job;
 - d. Must not perform any other productive work during the training
 See III. G., Classified Career Development Program, below, for details.
 10. **Waivers and Preemptions:** [FLSA](#) rights may not be waived by individual agreements, by collective bargaining agreements, or otherwise. California has wage and hour laws that are similar to the FLSA. California laws do not supersede the FLSA. Employees are entitled to the benefits of the federal FLSA or State wages and hours laws, whichever are better.
 11. **Work Week:** [FLSA](#) requires that wages be calculated on a work week by work week basis. A work week is seven consecutive days. Work schedules must be translated into work weeks to determine FLSA wages due. Employees may have work periods different from seven days.) In the LACCD, the work week begins on Monday for purposes of counting weekly work hours.
- C. **LACCD Exempt and Non-Exempt Jobs:** [FLSA](#) affects the District’s three employee services differently. Academic Service positions meet the criteria for executive, administrative, and professional exemptions and do not earn overtime. Some positions in the Classified and Unclassified Services meet this FLSA’s criteria and do not earn overtime; other positions do earn overtime at either 1½ times or straight time. See the following Human Resource Guides for details and requirements.
- [H-200, Employee Categories, Personnel Sub-Areas](#)
 - [P-130, Additional Assignment](#)
 - W-000, Work Schedules
- D. Each location is responsible for developing procedures that ensure overtime is verified and worked within the established District guidelines.

E. Supervisors and managers are responsible for ensuring compliance with the mandated provisions of [FLSA](#) and California Labor Code requirements. Table W-500A, LACCD Overtime Compensation Requirement Summary, below, summarizes these requirements.

TABLE W-500A LACCD OVERTIME COMPENSATION REQUIREMENT SUMMARY ^{1,2}			
ASSIGNED WORK SCHEDULE		OVERTIME COMPENSATION OPTIONS	REQUIREMENT PERIOD
WORKDAY	WORKWEEK		
• ALL NON-EXEMPT EMPLOYEES³			
Less than 8 hours	Less than 40 hours	<ul style="list-style-type: none"> Regular hourly rate up to 8 hours in a workday. 1½ times regular rate of pay <u>or</u> 1½ hours off for each hour worked 	<ul style="list-style-type: none"> Hours worked in excess of 8 hours in one day or hours worked in excess of 40 hours during the work week Any work authorized and performed on the sixth and seventh days of a scheduled work week.
8 hours	40 hours	<ul style="list-style-type: none"> 1½ times regular rate of pay <u>or</u> 1½ hours off for each hour worked 	<ul style="list-style-type: none"> Hours worked in excess of 8 hours in one day or hours worked in excess of 40 hours during the work week Any work authorized and performed on the sixth and seventh days of a scheduled work week.
9 hours	Alternating Two-Week Pattern: Week 1: 44 Week 2: 36 Total: 80	<ul style="list-style-type: none"> 1½ times regular rate of pay <u>or</u> 1½ hours off for each hour worked 	<ul style="list-style-type: none"> Any work authorized and performed in excess of 9 hours on a regularly scheduled 9-hour work day. Any work authorized and performed after 8 hours on regularly scheduled 8 hour work day. Any work authorized and performed on the employees regularly scheduled day off (RDO). Any work authorized and performed on the sixth and seventh days of a scheduled work week. Any work authorized and performed after 44 hours or 36 hours.
10 hours	40 hours	<ul style="list-style-type: none"> 1½ times regular rate of pay <u>or</u> 1½ hours off for each hour worked 	<ul style="list-style-type: none"> Any work authorized and performed in excess of 10 hours in any one day. Any work authorized and performed on the sixth and seventh days of a scheduled work week.
• DESIGNATED SUPERVISORY AND MANAGEMENT EMPLOYEES⁴			
Same as for Non-Exempt	Same as for Non-Exempt	Straight hourly rate or 1 hour off for each hour worked.	<ul style="list-style-type: none"> Any work authorized and performed in excess of 40 hours in a calendar week.
<p>¹ Unless a collective bargaining agreement specifies otherwise, overtime worked on any day recognized as a District holiday is paid at 1-1/2 times the regular rate of pay for actual hours worked.</p> <p>² Full-time non-exempt employees who, after leaving the worksite, are called back to work after leaving work, are typically guaranteed a minimum of four (4) hours at their appropriate overtime rate. See the applicable collective bargaining contract for details.</p> <p>³ Student employees assignments are not recommended for overtime. See Section III. F. Part-Time Assignments, 2. Unclassified Service of this HR Guide for details.</p> <p>⁴ Some jobs are excluded from time and one-half provisions for hours worked in excess of eight hours a day due to variable hour daily work assignment, but not from overtime compensation for hours worked in excess of 40 hours per week. See PC Rule 596, Overtime for the list of designated job titles and Building Construction Trades Council Agreement, Article 10, Hours and Overtime, B.7. Overtime for details.</p>			

F. Part-Time Assignments

1. **Classified Service:** Part-time employees may be authorized to work over their regularly assigned work schedule as follows:
 - a. If the employee is assigned to work less than eight (8) hours, any hours worked over the employee's regular assignment is compensated at the employee's regular rate of pay up to eight (8) hours.

- b. If the employee works over eight (8) hours in any given day or works a sixth day or seventh day, the employee is compensated at the employee's overtime rate.

2. Unclassified Service

- a. Student employee assignments augment the student's academic program commitment. Consequently, District's policy limits student employee assignments to working 25 hours a week during the Fall and Spring semesters or 34.75 hours a week during intersession, summer session, and winter recess. See [HR Guide P-320, Student Employees](#), for details. In addition, student employees are not to replace work allocated to Classified Service. It is, therefore, expected that overtime situations will not arise for student employees and that supervisors will assign student employees to work in a manner that does not result in overtime, i.e. not over eight (8) hours in any one day or over their assigned weekly work hour limit.
- b. If, however, a student worker is permitted or given direction to work more than eight (8) hours in any day or forty (40) hours in any week in violation of District policy, applicable law requires that the student receives overtime compensation.

G. *Classified Career Development Program:* Employees given released time for purposes of career development are required to makeup time at the rate of one hour of makeup time for each two (2) hours of released time. Time spent for makeup purposes which results in an employee being in paid status for a total of more than eight (8) hours in any one day are not considered as authorized and compensable overtime for purposes of cash payment. (Personnel Commission Rule 596).

H. *Compensatory Time:* Overtime is compensated by either cash payment or compensatory time as determined by department management. Unless a collective bargaining agreement specifies otherwise, compensatory time is handled as follows:

- 1. Non-exempt employees may accrue a maximum of 240 hours of compensatory time. (160 hours of over time worked x 1½ = 240 hours of compensatory time.)
- 2. Compensatory time off is to be taken by the employee at a time determined by the employee, provided he/she consults with his/her supervisor and provides at least three (3) working days notice. Such notice may be waived with the approval of the supervisor.
- 3. If the employee does not schedule compensatory time off, the employee may be required to take the time off to avoid cash payment before the end of the fiscal year. See the appropriate collective bargaining agreement for specific provisions applicable to each employee group.

I. Time worked as overtime is not creditable for vacation or seniority purposes.

J. Locations are responsible for budgeting overtime according to District Accounting guidelines.

K. Overtime Use and Authorization

- 1. Overtime is only to be authorized when additional work is needed due to increased workload and/or peak periods, to ensure staffing coverage during an employee absence, etc.
- 2. The following are not permissible uses of overtime: a reward for a job well done, a means of paying for work out of class, a way of paying an employee more than was awarded through the work out of class process, a way of keeping the employee quiet about a situation, etc.

3. Employees who are not exempt from the [FLSA](#) must have their overtime approved in advance by a supervisor and/or manager.
 - a. Employees must seek approval to work overtime. In the event a supervisor is not available to authorize overtime, and a perceived need for overtime arises, the employees are to seek approval from the next level supervisor/administrator on duty.
 - b. Approval for overtime is to be documented in writing, i.e., an original signature on a time report, letter stating date, time, and reason for overtime, etc.
 - c. Overtime worked must be paid, whether approved or not.
 - d. Employees working unauthorized overtime and/or failing to seek approval to work overtime are subject to disciplinary action.
4. The specific overtime hours reported must be the same as time actually worked. Overtime payments cannot be used to estimate and summarize a vague and undocumented assertion that overtime was believed to have been worked at some unspecified prior time.

L. Overtime Lists and Transfer Charges: When an employee is authorized to work overtime in a department or location other than the employee's regularly position, the costs of the overtime may be transferred to the account where the overtime was worked. Such transfers may be made within programs, college departments, or between District locations.

M. Overtime Reporting and Payments

1. For overtime to be paid to non-exempt employees, one of the following conditions must be met:
 - a. Total weekly time exceeds 40 hours after 12:01 AM Monday
 - b. Daily time exceeds 8 hours in a day if on a 8 hour/day work schedule
 - c. Daily time exceeds 9 hours in a day if on a 9 hour/day work schedule
 - d. Daily time exceeds 10 hours in a day if on a 10 hour/day work schedule

TABLE W-500B OVERTIME WORK PATTERN EXAMPLES							
EXAMPLE	NORMAL DAILY WORK SCHEDULE ¹	HOURS		ABSENCE HOURS ²	OVERTIME HOURS	TOTAL HOURS PAID	REMARKS
		ACTUALLY WORKED	ABSENT ²				
1	8:00 AM – 4:30 PM	8:00 AM – 5:30 PM		0	1	9	Normal overtime.
2	8:00 AM – 4:30 PM	9:00 AM – 5:30 PM		0	0	8	Employee adjusted work schedule with advance permission of supervisor.
3	8:00 AM – 4:30 PM	9:00 AM – 5:30 PM	8:00 AM –9:00 AM	1	1	9	Employee works beyond normal shift at request of supervisor.

¹ See W-000, General Policy on Work Schedules, for details.
² Must be in a paid status absence and approved by supervisor.

2. Except for Classified Career Development release time, paid approved absence time is included in the daily overtime reporting conditions. When, however, an employee adjusts his/her work schedule with supervisor approval from his/her daily work schedule, overtime is not required. Table W-500B, Overtime Work Pattern Examples, illustrates common work patterns that occur and when overtime is and is not required.
3. Time worked in excess of the employee's regular schedule is to be reported no later than the Monday following the week the overtime is worked.
4. An optional [Overtime and Request \(ORR\)](#) form showing authorization and time worked has been developed to assist with submitting overtime to the Location Time Reporting Office.
 - a. In lieu of using the [ORR](#) form, locations may develop their own form documenting authorization and time worked.
 - b. In order to avoid misunderstandings, it is important that employees and supervisors communicate about work outside the employee's regular work schedule before work occurs. For this reason, overtime should be requested and approved in writing prior to the work occurring.
5. Employees are to record their exact start and stop time on the time report, i.e., start time 5:07 PM, stop time 6:55 PM.
6. Time reporting personnel are to enter overtime hours, including rest periods and any time rounding requirements, into the SAP system as specified in the [Time Administration Handbook](#) and SAP Time Administration documentation.

N. Documentation Required

1. Each location is required to maintain documentation of the reason overtime was required, the name of the individual authorizing the use of overtime, and a record of when each employee worked overtime.
2. Documentation of overtime authorization and time worked are subject to audit for a period of three (3) years. Such documentation may be maintained in paper or digitalized form.

O. Lunch and Rest Periods

1. The California Labor Commission requires that when an employee works a period of more than five (5) hours, a meal period of not less than thirty minutes must be provided. The only exception to this requirement is when the period of time worked is not more than six hours.
2. When an employee works overtime, the [California Labor Code](#) requires a second meal period of not less than thirty minutes be provided if the total hours worked is more than ten hours per day. The only exception to this requirement is when the total hours worked is not more than 12 hours. In this instance, the second meal period may be waived by mutual consent of the supervisor and employee.
3. In the LACCD, the second lunch period is unpaid and the employee is expected to be relieved of duty during the lunch period. If duty is not relieved, the meal period is considered as an "on duty" meal and counts as time worked. On duty meals may be permitted when an unusual or unexpected circumstance arises and/or the nature of the work prevents an employee from being relieved of all duty. The supervisor and/or manager must approve an on-duty meal.

4. Lunch and meal requirements apply regardless of the day of the week an employee works.
5. Table W-500C, Lunch and Break Period Requirements, below, summarizes lunch and break period requirements. Table W-500D, Meal Period Requirements, below, provides an example of how to report meal periods when an employee works more than ten hours a day.

TABLE W-500C LUNCH AND BREAK PERIOD REQUIREMENTS ¹			
WORK WEEK SCHEDULE	OVERTIME WHEN DAILY HOURS EXCEED	WORK SCHEDULE	
		REGULAR	OVERTIME
5/40 ²	8	One Lunch Two Breaks	Additional 30-Minute Lunch Period Additional Break
9/80	9	One Lunch Two Breaks	Additional 30-Minute Lunch Period Additional Break
10/40	10	One Lunch Two Breaks	Additional 30-Minute Lunch Period Additional Break

¹ Specific break and lunch requirements are specified in collective bargaining agreements. The information contained in this chart is derived from California Labor Commission provisions.

² If an employee works less than eight (8) hours but more than four (4) are to be provided an uninterrupted daily unpaid thirty (30) minute lunch and an uninterrupted daily fifteen (15) minute break.

TABLE W-500D MEAL PERIOD REQUIREMENTS ¹											
HOURS WORKED TOTAL	REGULAR WORK SCHEDULE		ACTUAL ATTENDANCE		SAP "UNPAID" LUNCH PERIOD		ACTUAL "UNPAID" LUNCH PERIODS		REPORT OVERTIME		NOTES
	Start	End	Start	End	Start	End					
10	8:00	16:30	8:00	18:30	12:00	12:30	12:00	12:30	16:30	18:00	Second meal period not required.
11	8:00	16:30	8:00	19:30	12:00	12:30	12:00	12:30	16:30	19:30	Second meal period waived.
12	8:00	16:30	8:00	20:00	12:00	12:30	12:00 16:30	12:30 17:00	17:00	20:00	Second meal period taken.

¹ [California Labor Code § 512](#) requires a meal whenever an employee works more than five (5) hours and permits, with mutual consent of the supervisor and employee, the meal period to be waived when "a work period of six (6) hours will complete the day's work."

² When an employee works a period of 10 hours in a workday, [California Labor Code § 512](#) requires a second meal period be provided. The second meal code may be waived if (a) the total hours of work is not more than 12 hours and (b) the first meal period was not waived. California Division of Labor Standards Enforcement: [Enforcement Policies and Interpretations Manual](#).

IV. **ADDITIONAL SOURCES**

UNITED STATES DEPARTMENT OF LABOR

Fair Labor Standards Act (FLSA)

STATE OF CALIFORNIA

Labor and Workforce Development Agency

Division of Labor Standards Enforcement

Labor Code

CALIFORNIA EDUCATIONAL CODE

88026 Workweek

88027 Overtime

88028 Compensatory Time Off

88029 Exclusion from Overtime Provisions

88030 Overtime: Length of Workday

88197 Absences due to illness or accident; deductions from salary; amounts payable to employees under insurance policy.

LACCD BOARD RULES

Chapter X, Human Resources

Article XI Unclassified Assignments

101108 Compensatory Time Off for Classified Employees

LACCD HUMAN RESOURCE GUIDE

HR H-200 Employee Categories, Personnel Sub-Areas

HR P-130 Additional Assignment

HR W-000 General Policy on Work Schedules and Absences

PERSONNEL COMMISSION RULES

596 Overtime

812 Vacations

816 Holidays

LACCD COLLECTIVE BARGAINING AGREEMENTS

AFT Staff Guild Local 1521A: Article 12, Hours and Workweek

Building Trades Council: Article 8, Hours and Overtime

School Employees Union, SEIU Local 99: Article 8, Hours and Overtime

Supervisory Union SEIU Local 347: Article 7, Hours and Overtime